

**LEGISLATIVE BUDGET BOARD**  
**Austin, Texas**

**FISCAL NOTE, 81ST LEGISLATIVE REGULAR SESSION**

**February 28, 2009**

**TO:** Honorable Robert Duncan, Chair, Senate Committee on State Affairs

**FROM:** John S. O'Brien, Director, Legislative Budget Board

**IN RE: SB34** by Zaffirini (Relating to the civil liability of an employer or former employer of a mental health services provider who engages in sexual exploitation of a patient or former patient.), **As Introduced**

<b>The fiscal implications to the State cannot be determined.</b>
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The bill changes four words in subsections (a) and (b) of Section 81.003 of the Civil Practice and Remedies Code to expand the scope of damage liability for an employer of a mental health services provider if the provider injures a patient and the employer knows or has reason to know that the provider has engaged in sexual exploitation of a patient or former patient, not just the patient in question, and the employer failed to report the suspected exploitation or take action to prevent or stop the exploitation. This act would take effect immediately if it receives two-thirds vote of all members of each house. If it does not receive the necessary votes, it would take effect September 1, 2009.

This bill impacts Department of State Health Services (DSHS) state hospitals, as employers of mental health service providers. The fiscal impact, however, on DSHS cannot be calculated. It cannot be determined when or if DSHS employees would injure patients and when or if DSHS as an employer would fail to comply with the provisions of the bill. State Hospitals are required by administrative rule to dismiss any employees confirmed of Class I abuse, which includes sexual abuse. Additionally DSHS has established practices and procedures concerning the pre-hire screening of mental health services providers including contacting previous employers regarding any possible occurrences of sexual exploitation. Adhering to these established protocols should minimize any costs to the state. There could be a fiscal impact to the state, however, if damages are awarded for failure to comply with the provisions of the bill.

**Local Government Impact**

No fiscal implication to units of local government is anticipated.

**Source Agencies:** 537 State Health Services, Department of

**LBB Staff:** JOB, KJG, JF, LR